

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

Case No. 5:14-cr-00340-GTS

vs.

Sentencing Memorandum  
of Defendant Nicole F. Vaisey

Nicole F. Vaisey,  
Defendant

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**Offense Conduct**

Nicole F. Vaisey plead guilty to all counts of the superseding indictment pending against her while in attendance at a hearing on a motion filed by the government. She admitted to the elements of the facts alleged in the indictment and did not contest what the government indicated it would prove at trial. What is not before the court as a result of the process to date is the fine detail of her behavior. Because the replication or distribution of the digital video images involved would itself be an offense, we must rely on the reports of those who have viewed the images as part of the investigation and disclosure to defense counsel. The

Government's Motion In Limine is instructive. On September 7, 2013 Nicole F. Vaisey took a digital camera from Stephen Howells and recorded his actions. She is seated beside him while he acts against the child victim as depicted by a second camera set up by Howells. By my observations, she is passive. Her affect is flat. She does not exhibit flushing, nor is there any other evidence, such as erectile tissue (nipples), of sexual excitement on the part of Nicole Vaisey. She follows direction from Steven Howells without question. This pattern of behavior is repeated throughout the eight indictment counts applicable to her. Nicole Vaisey follows orders from Steven Howells while Steven Howells satisfies his sexual perversions.

### **Related Conduct**

Nicole Vaisey's involvement with children in the 8 counts applicable to her is not the only unusual conduct which explains her relationship with Steven Howells. Their relationship was based on Steven Howells directing, limiting, focusing and controlling Nicole Vaisey's sexuality. Early in the relationship he directed her to masturbate in public rest rooms, and punished her for coming to orgasm without his express permission at other times. As the relationship evolved, he commanded her to film sexual contact with a handicapped adult woman who Nicole Vaisey was

bathing as part of her employment. Having those images as leverage, Steven Howells arranged for Nicole Vaisey and other women in his sphere of influence to engage in lesbian sex, which is not her sexual preference or orientation. Howells watched and recorded the encounters and then had sex with the women he commanded. The process of degradation increased Howell's leverage and control over Nicole Vaisey. Steven Howells produced pornography to gratify his unique sexual desires. Nicole Vaisey became an actress in Steven Howells productions of pornography .

### **Nicole Vaisey's Vulnerability**

Steven Howells was Nicole Vaisey's first romantic relationship. She came to the relationship from a life experience that made her extremely vulnerable and provided little or no guidance based on experience regarding limits to the relationship or behavior within it. As a young child Nicole Vaisey was sexually abused by a member of her extended family. Before puberty a second incident of sexual abuse occurred involving a different member of her extended family. She did not engage in dating behavior during her adolescent years, nor while she was in college. Her energy was focused on excelling academically and actively participating in athletics, but she did not develop judgment regarding relationships

and boundaries from experience. While home from college over summer vacation, while returning from a night shift at a fast food restaurant in Potsdam, N.Y. to her father's rural residence, Nicole Vaisey was signaled to pull over by flashing lights emanating from a car following her. The male occupant of that car then approached her window and proceeded to forcibly rape her.

While she got counseling after disclosing the rape, Nicole Vaisey was still vulnerable. She graduated from college. Searching for her sexual identity as a young adult with no romantic experience, she read a popular novel named "50 Shades of Gray" which involves a romance interwoven with a Bondage-Discipline-Sado-Masochism fetish. The romance in the novel attracted her. Nicole Vaisey wanted a romantic partner. Nicole Vaisey then found a social network called FetLife where she advertised her availability. Steven Howells connected with Nicole Vaisey over Fetlife, then in person. Very quickly he became Nicole Vaisey's master.

The relationship between Nicole Vaisey and Steven Howells evolved in stages. First he gave her tasks and set limits on her sexuality defining when and where she could masturbate. Then he restrained her and had sex with her. He hit her with paddles, whips, etc. The infliction of pain was not done in anger, but

rather was done with ample periods of time between blows to maximize the feeling of pain and fear. After inflicting pain and creating fear, Steven Howells would be affectionate, thus creating a confusing melange of emotions for his partner. The assaults purported to be punishments for transgressions of rules defined by Howells. <sup>5</sup>It is clear from the Government's Sentencing Memorandum regarding Howells that his obsession with pornography dates back many years before his relationship with Nicole Vaisey. In August of 2013, before the offenses charged in the indictment occurred, Nicole Vaisey became upset that Steven Howells was spending time looking at pornography on his computer rather than spending time being intimate with her. While he was away from the home they were now sharing, Nicole Vaisey accessed Steven Howells computer and changed the password. When Howells returned he could not access his computer. Howells was now in a quandary since the computer contained a multi-year collection of child pornography. Howells initiated sado masochistic interaction with Nicole Vaisey. He directed her to dress in a silk wrap dress with no underwear and to put on high heeled shoes. Next she was shackled and her shackled arms were then hoisted over her head to a hook on the ceiling leaving her teetering on the high heels. Howells then set up a video link to broadcast the session on a second laptop computer.

Howells attached weighted clamps to Nicole Vaisey's nipples. He struck Nicole Vaisey with a variety of objects repeatedly, but with long intervening pauses so that the pain radiated and subsided so that the next blow would be felt in its full intensity. Finally Nicole Vaisey uttered their agreed upon safe word. Howells took her down from the ceiling hook. He turned off the computer link. Nicole Vaisey remained shackled. Howells then connected wires from a high voltage electric fence controller of the type used to keep horses and cattle in a confined area to Nicole Vaisey's nipples and vagina. He used electricity to induce her compliance with his demand for the modified pass word. She complied.

Nicole Vaisey subsequently scrupulously complied with Howells requests and directions. Howells gave her permission to work and see her family. Her offense conduct happened in that context. While she continued to work and have regular contact with her family, her secret sexual fetish life with Howells was not disclosed to them, nor did she seek to flee. She did not think she had a place to go. She did not see herself as having a choice. Steven Howells had the power to make Nicole Vaisey feel severe pain, and he had. Steven Howells owned her body, her soul and her will.

Once the police intervened, Nicole Vaisey drove herself to the office of the St. Lawrence County Sheriff and provided a confession. Howells had intimated that he would suicide rather than being arrested for his behavior. Because she perceived herself to be Howells slave and property, Nicole Vaisey anticipated that Howells would kill her before his own suicide. Their residence contained weapons, ammunition and prescription drugs in potentially lethal doses. Thus surrender to the authorities and confession became life saving acts by Nicole Vaisey. Despite being advised against further disclosures by counsel, Nicole Vaisey soon thereafter disclosed additional offenses to her family members, including one victim's mother, during a jail visit. In the twisted world she then inhabited incarceration became a kind of liberation.

### **Sentencing**

The Court has authority within the constraints of the mandatory minimums set by Congress to sentence Nicole Vaisey either consecutively or concurrently. The Court is not bound by the Federal Sentencing Guidelines. *Gall v. United States*, [552 U.S. 38](#) (2007) This case is sui generis and there is no body of prior sentencing experience on a national level to guide what is just in this case. The Court should broadly weigh all of the factors recited in 18 USC § 3553 (a).

Presumably, the Government will focus on the mechanical application of the sentencing guidelines numerical calculation of years. The problem in that approach is that the Sentencing Guidelines do not have a fail safe mechanism to prevent what is arguably a cruel and unusual punishment. Drawing and quartering is clearly a barred punishment under our Constitution and because it is prohibited, it is little considered. Its application, other than an initial execution by strangulation, was administered publicly and post mortem. Sometimes severed body parts were left on parapets for days to increase the public impact. Drawing and quartering was thus symbolic, terrifying but symbolic. A sentence that exceeds the predictable life of a defendant is similarly symbolic and terrifying. It serves no real considered deterrent purpose, either general or specific. What the Court should consider is a punishment appropriate to the life of a women not yet thirty years old. Will Nicole Vaisey be a threat to society such that she must be imprisoned should she be alive when she is 80 years old? Will Nicole Vaisey be a threat to society such that she must be imprisoned should she be alive when she is 70 years old? At age 65 after years of imprisonment, will Nicole Vaisey still be a risk to the community? At age 55 would Nicole Vaisey be incapable of living in society without risk of harm? Concurrent sentences would not be unjust for this

defendant. Sentences below the lawful maximums would not be unjust for this defendant.

Dated: 25 November 2015

At:  
Watertown, New York



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